



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/764,726	01/26/2004	J. David Blaha	702.118	8631
37902	7590	08/21/2006	EXAMINER	
WRIGHT MEDICAL TECHNOLOGY, INC. 5677 AIRLINE ROAD ARLINGTON, TN 38002-9501			HOFFMAN, MARY C	
			ART UNIT	PAPER NUMBER
			3733	

DATE MAILED: 08/21/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/764,726

Applicant(s)

BLAHA ET AL.

Examiner

Mary Hoffman

Art Unit

3733

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 16 June 2006.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) 5, 11 and 12 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-4, 6-10 and 13-20 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 26 January 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Rejections - 35 USC § 103

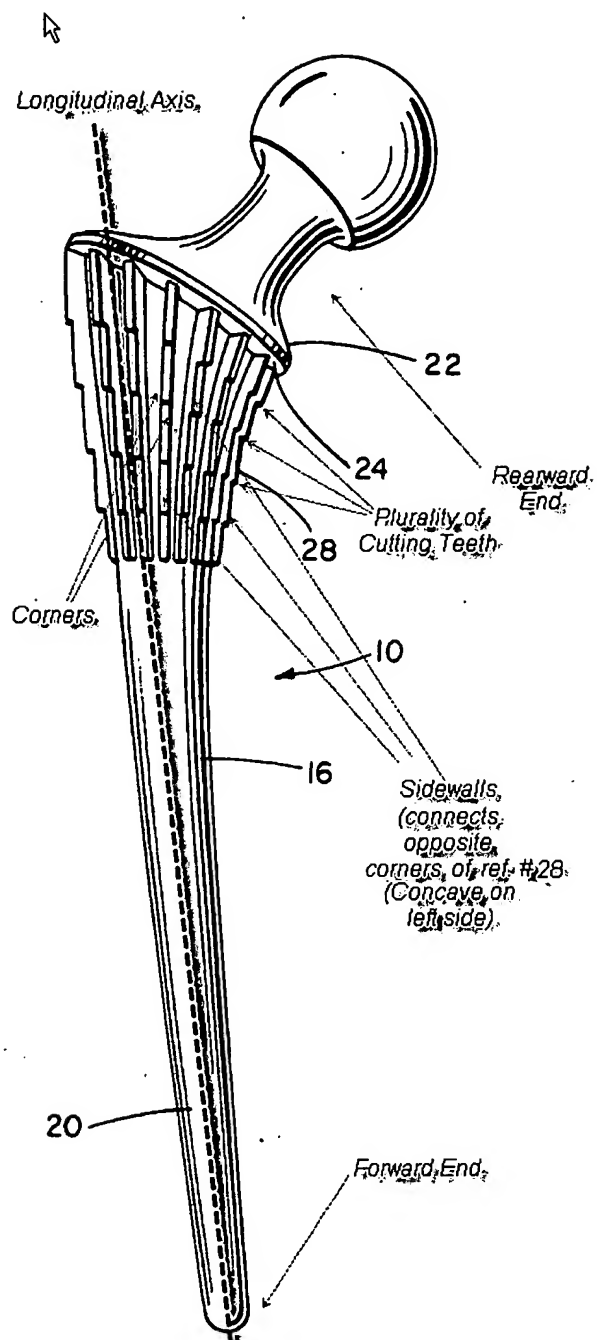
The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-4, 6-10 and 13-20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Meyer (U.S. Patent No. 4,549,319) in view of Mackwood Ling et al. (U.S. Patent No. 6,241,772).

Meyer discloses a self-rasping prosthetic (see Figs. 5, col. 11, lines 44-48) comprising an elongate body having a central longitudinal axis, a rearward end, a forward end, and a plurality of cutting teeth on a surface of the elongated body and being matched to corresponding corners of the prosthetic component, and a distal tip at the forward end of the elongate body. The cutting teeth (jagged portions of fins ref. #28) are along the corner edges, and side walls connect the cutting teeth of adjacent corner edges, the side walls extending inwardly from the cutting teeth in the direction of the central longitudinal axis. The body comprises four corner edges matched to corresponding corners of a prosthetic component of rectangular cross-section (see marked-up figure, next page). The components denoted by ref. #28, including the corners and sidewalls, make up a portion of the prosthetic component that is rectangular in cross-section. The side walls have a concave configuration.

FIG. 5



Meyer U.S. 4,549,319

Meyer discloses the claimed invention except for the bullet-shaped distal tip comprising a three fins or four fins, spaced at 90 degrees spaced locations about the central longitudinal axis, extending radial to the central longitudinal axis and extending longitudinally, distally from the forward end of the body to converge at an apex aligned with the central longitudinal axis, the fins being disposed inwardly.

Mackwood Ling et al. disclose a centralizing device for the stem of a prosthesis (see Fig. 4) including a bullet-shaped distal tip comprising a three fins and four fins, spaced at 90 degrees spaced locations about the central longitudinal axis, extending radial to the central longitudinal axis and extending longitudinally, distally from the forward end of the body to converge at an apex aligned with the central longitudinal axis, the fins being disposed inwardly in order to centralize the device at the distal end (col. 3, lines 22-35) .

It would have been obvious to one of ordinary skill in the art to construct the device of Meyer with a bullet-shaped distal tip comprising a three fins and four fins, spaced at 90 degrees spaced locations about the central longitudinal axis, extending radial to the central longitudinal axis and extending longitudinally, distally from the forward end of the body to converge at an apex aligned with the central longitudinal axis, the fins being disposed inwardly in view of Mackwood Ling et al. in order to centralize the device at the distal end.

Response to Arguments

Applicant's arguments with respect to claims 1-4 and 6-10 have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Mary Hoffman whose telephone number is 571-272-5566. The examiner can normally be reached on Monday-Friday 9:00-5:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Eduardo C. Robert can be reached on 571-272-4719. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.


EDUARDO C. ROBERT
SUPERVISORY PATENT EXAMINER

MCH
